

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1430

JAN 24 2013

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GEORGE W. NOE, M.D., LICENSE NO. 19782, 214 SOUTH CHILES STREET, HARRODSBURG, KENTUCKY 40330

ORDER OF REVOCATION

On January 17, 2013, the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Hearing Panel B, took up this case for final action. The members of Panel B reviewed the Complaint, filed September 10, 2012; the Hearing Officer's Recommended Order Finding George W. Noe, M.D., in Default, filed November 2, 2012; the licensee's exceptions filed November 15, 2012; and a memorandum from the Board's counsel, dated November 15, 2012. The Panel also heard and considered oral remarks by the Board's Assistant General Counsel. The licensee, George W. Noe, M.D., although given notice of the meeting and an opportunity to be heard, did not appear before the Panel.

Having considered all the information available and being sufficiently advised, Hearing Panel B ACCEPTS the hearing officer's recommended findings and ADOPTS those findings and INCORPORATES them BY REFERENCE into this Order. (Attachment) Hearing Panel B FURTHER ACCEPTS AND ADOPTS the hearing officer's Recommended Order. Having considered all of the sanctions available under KRS 311.595, the nature of the violations in this case, and Dr. Noe's failure or refusal to participate in the administrative process, Hearing Panel B has determined that revocation is the appropriate sanction for these violations. Accordingly, Hearing Panel B **ORDERS:**

1. The license to practice medicine held by George W. Noe, M.D., is hereby REVOKED and he may not perform any act which constitutes the "practice of medicine," as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities – in the Commonwealth of Kentucky;
2. The licensee SHALL pay the costs of these proceedings in the amount of \$156.25, within six (6) months of the date of entry of this Order; and
3. The provisions of KRS 311.607 SHALL apply to any petition for reinstatement filed by the licensee.


SO ORDERED, this 24th day of January, 2013.



RANDEL C. GIBSON, D.O.
CHAIR, HEARING PANEL B

CERTIFICATE OF SERVICE

I certify that the original of this Order of Revocation was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and a copy was mailed to Thomas J. Hellmann, Esq., 415 West Main Street, P.O. Box 676, Frankfort, Kentucky 40602-0676, and mailed, via certified mail, return-receipt requested, to George W. Noe, M.D., 214 South Chiles Street, Harrodsburg, Kentucky 40330, on this 24th day of January, 2013.



Leanne K. Diakov
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
Tel. (502) 429-7150

EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order will be thirty (30) days after this Order of Revocation is received by the licensee.

The licensee may appeal from this Order, pursuant to KRS 311.593 and 13B.140-150, by filing a Petition for Judicial Review in Jefferson Circuit Court within thirty (30) days after this Order is mailed or delivered by personal service. Copies of the petition shall be served by the licensee upon the Board and its General Counsel or Assistant General Counsel. The Petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested, along with a copy of this Order.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1430

FILED OF RECORD

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K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GEORGE W. NOE, M.D., LICENSE NO. 19782
214 SOUTH CHILES STREET, HARRODSBURG, KENTUCKY 40330

RECOMMENDED ORDER FINDING
GEORGE W. NOE, M.D., IN DEFAULT

This action is before the hearing officer on the *Motion for Default Ruling* filed by the Kentucky Board of Medical Licensure. Finding substantial merit to the motion, the hearing officer recommends that the Board enter a Final Order finding George W. Noe, M.D. in default due to his failure to respond to the *Complaint* dated September 10, 2012, or the hearing officer's *Order Requiring Filing of Response* dated October 18, 2012. In support of that recommendation, the hearing officer states the following:

In the *Complaint* the Board charged Noe with violating KRS 311.595(9), as illustrated by KRS 311.597(4). In support of that charge, the Board stated that a Board consultant had reviewed several of Noe's patient records, and they revealed that Noe had departed from or failed to conform to acceptable and prevailing medical practices in the diagnosis, treatment, record keeping, and prescribing of controlled substances to his patients.

In accordance with the provisions of KRS 311.591(4), Noe was directed in the *Complaint* to respond to the Board's charges within thirty days of service of the *Complaint*. Attached to the Board's motion is the certified mail receipt that indicates a

person named Ruthann Smith signed for the *Complaint* on September 12, 2012, at Noe's last known address of record. *Motion for Default Ruling*, pages 1-2. Thus, the hearing officer finds that Noe was served with the *Complaint*, and pursuant to KRS 311.591(4), Noe was required to file a response by October 12, 2012.

When Noe did not file a response by its due date, the Board filed its *Motion for Default Ruling*, and the hearing officer issued an order directing Noe to file a response to the motion and to the allegations in the *Complaint* by October 29, 2012. *Order Requiring Filing of Response*. Noe has not responded to the hearing officer's order, and Noe's copy of that order, which was also sent to his address of record, was not returned as undeliverable.

Pursuant to KRS 311.591(4), "failure to submit a response [to the *Complaint*] or willful avoidance of service may be taken by the board as an admission of the charges." In addition, a party may be held in default for failure to comply with the orders of the hearing officer. KRS 13B.080(6).

Based upon the fact that Noe failed to respond to the allegations in the *Complaint* within the time period allowed by KRS 311.591, and due to his failure to comply with the order of the hearing officer, the hearing officer finds Noe in default. Pursuant to KRS 311.591(4), the Board may find the factual allegations in the *Complaint* to be true and conclude that Noe is guilty of the statutory violations set forth in the *Complaint*. Therefore, the hearing officer recommends the Board issue a Final Order finding Noe in

default and imposing any appropriate sanction for the misconduct set forth in the *Complaint*.

In light of this recommended default order, the administrative hearing scheduled for April 9-10, 2013, is canceled.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4) a party has the right to file exceptions to this recommended decision:

A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

A party also has a right to appeal the Final Order of the agency pursuant to KRS 13B.140(1) which states:

All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), "Such review [by the circuit court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

SO RECOMMENDED this 2nd day of November, 2012.



THOMAS J. HELLMANN
HEARING OFFICER
415 WEST MAIN ST.
P.O. BOX 676
FRANKFORT, KY 40602-0676
(502) 227-2271
thellmann@hazelcox.com

CERTIFICATE OF SERVICE

2nd I hereby certify that the original of this RECOMMENDATION was mailed this
day of November, 2012, by first-class mail, postage prepaid, to:

JILL LUN
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

for filing; and a true copy was sent by first-class mail, postage prepaid, and by e-mail to:

LEANNE K DIAKOV
ASSISTANT GENERAL COUNSEL
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

GEORGE W. NOE, M.D.
214 SOUTH CHILES STREET
HARRODSBURG, KY 40330


THOMAS J. HELLMANN

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